

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ASHLEY COX, *et al.*,

Plaintiffs,

V.

ELLEN MARIE HESS, in her official
capacity as Commissioner of the Virginia
Employment Commission,

Defendant.

Case No. 3:21-cv-253-HEH

**REPLY IN SUPPORT OF DEFENDANT’S MOTION FOR AN EXTENTION OF TIME
TO FILE RESPONSIVE PLEADINGS**

The Defendant, Ellen Marie Hess, Commissioner of the Virginia Employment Commission (“Defendant”), by counsel, states as follows for her reply in support of Defendant’s motion for an extension of time to file responsive pleadings:

1. Defendant's counsel, Thompson McMullan, P.C., was hired by the Commonwealth of Virginia (the "Commonwealth") to defend this case ten days ago. Since being retained, Defendant's counsel has diligently worked to review the factual allegations in the Complaint and prepare a substantive response to defend the Virginia Employment Commission. Defendant's counsel was not involved in any of the pre-lawsuit discussions alluded to in Plaintiffs' opposition. Any discussions between Plaintiffs' counsel and the Commonwealth before this lawsuit was filed preceded the involvement of Defendant's counsel in this matter. Normally, requests for professional courtesies of this kind are unopposed. Unfortunately, Defendant's request for the courtesy of an extension was denied, so the filing of this motion became necessary.

2. Furthermore, there is no reason to significantly accelerate the normal course of discovery in this case on account of Defendant's request for the courtesy of an extension. Opening discovery at this early juncture would be extraordinary under any circumstance, particularly here where Defendant is still reviewing the allegations in the Complaint and assessing potential defenses, including whether this Court possesses subject matter jurisdiction over this case.

WHEREFORE, the Defendant, Ellen Marie Hess, Commissioner of the Virginia Employment Commission, by counsel, requests that this Court enter an Order extending the time for the filing of responsive pleadings in this matter to May 28, 2021 and, furthermore, that Plaintiff's request for premature discovery be denied.

Date: May 5, 2021

Respectfully submitted,

ELLEN MARIE HESS, in her official capacity
as Commissioner of the Virginia Employment
Commission

By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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